

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

PERCY LEE RHODES,

Plaintiff,

v.

JOSEPH RUIZ, et al.,

Defendants.

Case No. 1:21-cv-0942 JLT CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO CORRECT
SCRIVINER'S ERROR AND TO REINSTATE
CERTAIN CLAIMS AGAINST DEFENDANT
McCOMAS

(Doc. 22)

Percy Lee Rhodes is a former pretrial detainee who seeks to hold several individuals liable for violations of his civil rights action pursuant to 42 U.S.C. § 1983. On June 26, 2023, the assigned magistrate judge issued Findings and Recommendations to correct a scrivener's error, recommending the failure to protect and failure to train claims asserted against Defendant McComas be permitted to proceed in this action. (Doc. 22.) The magistrate judge also recommended Defendants be granted a 30-day extension of time within which to file a responsive pleading addressing all cognizable claims identified in the findings. (*Id.* at 3.)

The Court advised Plaintiff that any objections were due within 14 days of the date of service. (Doc. 22 at 3.) The Court informed him also that the "[f]ailure to file objections within the specified time may result in waiver of rights on appeal." (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff did not oppose the Findings and Recommendations.

1 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this
2 case. Having carefully reviewed the entire matter, the Court concludes the Findings and
3 Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 4 1. The failure to protect and failure to train claims asserted against Defendant McComas,
5 pursuant to 42 U.S.C. § 1983, **SHALL** proceed in this action.
- 6 2. **Within 30 days of this order**, Defendants **SHALL** file a responsive pleading
7 addressing the following claims: (a) deliberate indifference to serious medical needs
8 claims against Defendants Ruiz, Lightner, and McComas; (b) an access to courts claim
9 against Defendant Cortez; (c) failure to protect and failure to train claims against
10 Defendant Lightner; and (d) failure to protect and failure to train claims against
11 Defendant McComas.
- 12 3. The matter is referred to the assigned magistrate judge for further proceedings.

13
14 IT IS SO ORDERED.

15 Dated: **July 17, 2023**


UNITED STATES DISTRICT JUDGE